
ALBERTA ENVIRONMENT ORPHAN WELL COMPLIANCE PROCESS

**Government
of Alberta ■**

ISBN No. 978-0-7785-9954-8 (Printed)
ISBN No. 978-0-7785-9955-5 (On-line)
Web Site: <http://www.environment.gov.ab.ca>

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Introduction

Alberta Environment (AENV) is responsible for ensuring oil and gas operators remediate contamination and conduct surface reclamation on upstream oil and gas liabilities in Alberta. For these activities, AENV is involved when the operator applies for a reclamation certificate or if reclamation or remediation compliance and enforcement are required. Alberta Environment is not the regulator for the purpose of drilling, licensing, producing or abandoning wells and smaller upstream oil and gas facilities.

Alberta Environment expects oil and gas operators to meet their reclamation and remediation responsibilities. Typically, the obligations will be fulfilled by the licensee on record in the Energy Resources Conservation Board's (ERCB) system. In the event AENV has reason to believe an ERCB licensee will not fulfill the remediation and reclamation obligations, enforcement options are available. For substance releases, an environmental protection order (EPO) can be issued to a person responsible under section 113 of the *Environmental Protection and Enhancement Act* (EPEA). For surface reclamation, an EPO can be issued under section 140 of EPEA to the operator. Prior to issuing such orders, AENV's common practice is to investigate the ownership structure for responsible parties.

Compliance Process for investigating potential orphan well sites

Alberta Environment has established a compliance process for the identification of responsible parties when an individual site has been identified as a potential orphan. The process is triggered when one or more of the following occur:

- The ERCB issues an Abandonment Order.
- The Surface Rights Board (SRB) issues a Termination Order.
- A landowner files a complaint.
- An AENV Environmental Protection Officer brings a site forward.
- Alberta Sustainable Resource Development (ASRD) brings a site (public land) forward.
- Special Areas Board brings a site forward.
- The licensee is included on the Licensee Liability Rating Exclusion List.
- The ERCB designates a site orphan for abandonment.

Once a trigger has been identified, a variety of research techniques and tools can be applied to determine whether a responsible party is available for the individual site. The trigger may be for one well site; however, research is conducted on all well sites, facilities and pipelines associated with the ERCB licensee. Researching all the licenses associated with the ERCB licensee has proven to be more efficient, as it allows AENV to address all the well sites, facilities and pipelines operated by the defunct company at the same time, rather than dealing with the well sites as individual investigations.

The procedures below describe the approach used in the issuance of any EPO for orphan sites.

For site(s) designated orphan for abandonment by the ERCB, AENV will issue the EPO(s), and request the ERCB designate the site(s) orphan for reclamation under the Oil and Gas Conservation Act. For those site(s) not designated orphan for abandonment by the ERCB, the following steps will be used for locating a potential responsible party:

- 1) Where no EPEA approval or registration has been issued, the ERCB licensee will be the first to be considered the operator for reclamation compliance and enforcement issues as:
 - a. Industry standard practice is to hold the licensee responsible;
 - b. ERCB standard practice is to hold the licensee responsible; and
 - c. Operators can be tracked through the responsible regulator's (ERCB) records.
- 2) If the ERCB licensee is defunct, AENV will look to any successor, or receiver/trustees.
- 3) When the licensee can no longer meet their obligations under EPEA, AENV will look to any possible working interest participants (WIP). As a starting point, AENV will look at the following:
 - a. ERCB well records. AENV recognizes the WIP information filed with the ERCB may be outdated or incorrect. AENV will use the WIP information as a starting point.
 - b. In some cases, the WIP may provide AENV with further information related to additional WIP, and assist in determining the correct WIP structure for the individual site.
 - c. On public land, the LSAS database is verified to determine who holds the surface disposition lease. The surface disposition holder may be a potential WIP, successor or the surface holder.
- 4) Surface leaseholders – If a company sells properties, the purchase and sales agreement may include operating and non-operating properties. In some cases, the well bore may not be a part of the agreement; however, the reclamation responsibility for the abandoned wells may be outlined. In other cases, a company may transfer a surface lease agreement rather than obtaining a new surface lease agreement:
 - a. AENV will obtain the land title to verify who holds the registered caveat on title.
 - b. AENV will contact the SRB to verify whether the surface lease payments are being made on behalf of an operator.
 - c. The Special Areas Board records are reviewed for information.
 - d. ASRD will provide the name of the disposition holder on public land, as they are held responsible for surface reclamation.
- 5) The lease site is verified for overlapping activities. Overlapping activities have distinct rules respecting the allocation of reclamation liability (see C&R/IL/97-6: Reclamation Certificates for Overlapping Activities and C&R/IL/01-9: Certification of Wellsite Reductions, Additions, Overlaps, Multi-Well Facilities, and Forced Lease Boundary Changes).

The procedures above are a starting point for the process of locating responsible parties for surface reclamation. Each investigation is site specific and may result in different steps within the process to obtain the best information.

There are various scenarios that may occur when dealing with potential orphans. AENV would like to establish a definitive process for the various scenarios below to streamline the process for the individual orphan sites.

Scenario	Recommendation	Rationale
1. Site is deemed orphan for abandonment purposes by the ERCB. Including those sites deemed orphan for remedial abandonment (post 1963 sites only). (Straightforward)	Alberta Environment issues an EPO and submits a recommendation to the ERCB for the site to be deemed orphan for reclamation.	Once the ERCB deems a site orphan for abandonment, AENV will alignment with the ERCB's recommendation that a site can be considered orphan. Alberta Environment will issue the EPO and proceed directly to the ERCB to request the site be deemed orphan for reclamation.
2. Reclamation only files.	Alberta Environment presents information on the company and individual sites to the Peer Review Group (PRG). The PRG will provide recommendations to the Liability Management Advisory Committee (LMAC) regarding the site.	Alberta Environment will continue to present reclamation-only sites to the LMAC, if advised by the PRG. Alberta Environment considers a reclamation-only file one in which all of a company's sites were previously abandoned by someone other than the ERCB or the Orphan Well Association (OWA).
3. Other	<p>Alberta Environment presents the information on the company and the site to the PRG. The PRG in collaboration with the OWA and AENV will provide recommendations for consideration of a signed resolution from the Board of Directors for orphan sites that:</p> <ul style="list-style-type: none"> • Deviate from standard process • Split liabilities (alternate site activities are not related to upstream oil and gas) • Unusually high cost estimate to remediate and reclaim 	<p>Alberta Environment will collaborate with the ERCB and the OWA on all sites being presented to the PRG, and to the LMAC (if required) for acceptance. This will allow the opportunity for the OWA and the ERCB to provide any additional knowledge of the sites deviating from standard process.</p> <p>The PRG can make the recommendation to request the sites be reviewed by the OWA Board of Director's. A site that fit into this scenario should be brought to the attention of the OWA's Board of Director's for review prior to the site being presented to the LMAC.</p>

Business Rules and Process for AENV to bring Reclamation issues forward to the OWA

- 1) Alberta Environment will prepare a recommendation for the proposed site(s) to be deemed orphan(s) for the purpose of reclamation. The recommendation will be presented in a memo or profile:
 - o The profile will summarize information obtained by AENV and include the recommendation to request the site(s) be deemed orphan(s) for reclamation purposes under the *Oil and Gas Conservation Act* (OGCA). (Note: Section 70(2)(b)(iii) of the OGCA defines a defaulting party for purposes of the Orphan Fund as an operator, licensee or WIP, "*who in the opinion of the Board, does not exist, cannot be located or does not have the financial means to contribute to those costs as required by this Act.*").
 - o The criteria for determining whether individual sites are orphan includes, but is not limited to, the following:
 - Liable parties are struck from Alberta Corporate Registry.
 - No successor company.
 - No financially viable WIP.
 - ERCB designated an individual site orphan for abandonment.
 - No visible assets.
 - Inability to contact liable parties (i.e., no known address, phone numbers, outside jurisdiction).
 - Evidence of formal financial actions (i.e. bankruptcy proceedings).
 - Licensed properties not obtaining proper care and custody (i.e., maintenance)
 - Inability to meet financial obligations (i.e., mineral lease payments, surface lease payments, municipal taxes).
 - Company is included on the Licensee Liability Rating Exclusion List.
 - No known revenue streams.
- 2) If the scenario is straightforward (scenario 1 in table above), AENV will prepare a memo requesting the ERCB designate the site(s) orphan(s) for reclamation purposes under the OGCA. The ERCB will review the file and reciprocate with an Orphan for Reclamation Designation Memo.
- 3) If the scenario is not straightforward (scenario 2 and 3 in table above), AENV will investigate the site to determine if the site is orphan or if a responsible party can be identified. AENV will prepare a profile for distribution to the PRG. The profile and recommendation will be presented by AENV at the next PRG meeting. The PRG will provide recommendations to the LMAC regarding the site.
- 4) After the peer review by the LMAC the site(s) will either
 - a) *be denied by the LMAC*
 - b) *be approved by the LMAC*
 - c) *go back to AENV for further work or clarification.*
- 5) If a site is denied by the LMAC (4a), AENV will consult with the ERCB and the OWA, and the site may be referred to the Regional Compliance Manager.

- 6) If a site is approved by the LMAC (4b), AENV will prepare a memo requesting the ERCB designate the site(s) an orphan(s) for reclamation purposes under the OGCA. The memo will summarize the data AENV relied on to determine the site should be considered orphan. The ERCB will review the file and reciprocate with an Orphan for Reclamation Designation Memo.
- 7) If a site goes back to AENV for further work or clarification (4c), the site may need to be presented to the LMAC at a later date once that work is complete.
- 8) Once the site is designated as orphan for reclamation under the OGCA, the site is turned over by AENV to the OWA through an agent letter, which includes the EPO issued to the site.

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February 2010

